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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,296	09/15/2000	Alexander Marc Jacques Brouaux	21685-06149	2686

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EXAMINER	
BAYERL, RAYMOND J	

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/663,296	BROUAUX, ALEXANDER MARC JACQUES	
	Examiner	Art Unit	
	Raymond J. Bayerl	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 April 2004* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3 - 23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3 - 7, 9 - 13, 16 - 20, 22* is/are rejected.

7)☒ Claim(s) *8, 14 - 15, 21* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 3 – 7, 9 – 13, 16 – 20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson et al. ("Benson"; US #5,808,610) in view of Grossman et al. ("Grossman"; US #5,760,774).

As per independent claim 3's "method utilizing a graphical user interface", Benson identically discloses the use of "a graphical user interface comprising a plurality of elements", such as those that may be opened from a menu (col 1, lines 23 – 38). Benson, as shown in figs 3, 4, 5, teaches that panels can be **docked** by dragging a first panel and dropping it **in proximity with** a second panel (Abstract; col 1, line 59 – col 2, line 4). Thus, when "one or more of the elements are disposed within close proximity of each other", Benson forms a composite representation from the two "elements".

As per "changing the graphical representation of one or more of the elements" when "proximity" is present, Benson appears to maintain the original graphical form of the panels when they are docked (but please note; Benson introduces a docking wedge between them; the resulting overall graphic is different than a mere re-display of its constituent parts).

However, Grossman, in CONSOLIDATING ICONS INTO A MASTER ICON, teaches that icons that are not used very often may disappear into a master icon (Abstract). More specifically, Grossman's master icon **graphically changes** as needed when the icons disappear after consolidation (col 8, line 49 – col 9, line 43).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to alter the graphical appearance of Benson's proximity-merged "elements" through the technique of Grossman because this is a savings in screen real estate when the number of Benson's elements becomes large. Indeed, motivation may be found in Benson to make this adaptation, in the disclosed group operations upon docked panels, which can be reduced in size by pressing a minimize button on any one of the docked panels (Abstract). Once a Benson "element" is formed into a consolidated group, it then behaves according to rules imposed by the larger group, which is Grossman's graphical consolidation in a master icon.

The "dynamic edge surrounding the core" in claim 4 is suggested by Benson, where the docking wedge is introduced to facilitate the combination of panels. Benson also permits the case where "the edges of the elements overlap" (claim 5): by dragging a first panel and dropping it, the "overlap" situation is specifically contemplated. When the Benson user decouples a panel by use of the docking wedge (col 4, lines 53 – 67), "separating the moved element from the group when the separated element is moved out of proximity from the group" (claim 6) will occur, once the undock a panel procedure is performed and the panel moved away.

One of the principal capabilities of the docked "group of joined elements" in Benson, a characteristic shared by a "changed graphical representation" according to the teachings of Grossman, is that the panels behave as a single unit (col 4, lines 31 – 42), as in claim 7's "repositioning the group of joined elements...preserving the spatial

relationship among the joined elements". A similar line of reasoning applies to claims 10, 17.

Independent claim 9 is similar to claim 3 in that "elements" are formed into a "group", except that instead of "proximity" being the basis for combination, claim 9 responds to "a user input" that results in "moving a first element to a position overlapping a second element". However, as noted above with respect to claim 5, Benson uses dragging and dropping of panels, and thus deals specifically with the situation of "overlapping" panels—they are combined with a docking wedge. Thereafter, a "merging" as per Grossman will result in the final representation of the "group", to the extent that "merging" can be reasonably interpreted in keeping with applicant's disclosure.

In the case of "a third element" (e.g., a "third" Benson panel) being combined with an existing "group" (claim 11; see also claim 18), a "new group" will be formed in the Benson/Grossman combination. Then, just as in claim 6, this "third element" may be separated (claims 12, 19), using the "moving" suggested by Benson in the undock a panel routine.

The "core region"/"dynamic edge region" (claims 13, 20) is suggested by the operation of the Benson docking wedge operator, as noted above with respect to claim 4.

Independent claim 16's "computer program product", which carries out essentially the "method" steps of claim 9, is rejected under the Benson/Grossman combination, using a line of reasoning similar to that given above. Both Benson and

Grossman disclose the environment of "a media rendering software application" (claim 22).

3. Claims 8, 14 – 15, 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 8's "changing the graphical representation" specifically forms an "overlapping region between the two or more elements". While Benson's docking wedge, which exists as a common boundary to both of the panels, produces a representation of an overlapped panel pair *per se,* neither Benson nor Grossman teach or suggest that "the color of the overlapping region" is "derived from the colors of each of the two or more elements". A similar line of reasoning applies to claims 14, 21. This best prior art made of record also does teach or suggest "fusing the colors of the first and second elements in an overlapping region", as in claim 15.

4. Applicant's arguments filed 21 April 2004 have been fully considered but they are not persuasive.

At page 9 of the remarks, applicant argues that "there is no suggestion in Grossman of changing the graphical representation of any icon when two icons are within close proximity of each other." However, this is the Examiner's reason for advancing a Section 103 rejection using Benson, where proximity indeed will create a "group", joined through the docking procedure. Grossman is merely relied upon for the suggestion that the combination of panels should undergo a further graphical change, when they are joined. Applicant appears to be impermissibly attacking each reference

individually, when it is instead the overall suggestion of the Benson/Grossman combination that forms the basis for the ground of rejection.

When applicant finally treats the combination of references at page 10, applicant argues that "there would be no need to apply Grossman's technique of altering a master icon in Benson because Benson's interface does not delete a panel when the panel is docked". But once again, applicant is reading Benson too literally. Benson teaches the formation of a composite graphic from docked panels. Grossman's modification to include graphical modification is fully suggested by Benson, as a way to further simplify the interface by graphically merging the composition in the direction of a master icon.

It does not "destroy Benson's principle of operation", as applicant argues further on page 10, to use graphical composition as per Grossman to produce a further merged panel representation in Benson. It is not true that "Grossman does not teach joining elements in a user interface" simply because "it teaches removing an element from the user interface altogether and then indicating that deletion on a master icon". Grossman's master icon is fully devoted to "joining elements".

The Examiner has attempted to follow the established *Graham v. Deere* guidelines in evaluating the present claims. The level of ordinary skill in the art is shown in Benson's composition and Grossman's simplifying composite graphic, each developed when two "elements" are joined to form a single "group". Applicant's difference from this level of ordinary skill, in the claims rejected above, is that graphical composition and joined "elements" are produced in a single interface, when the "elements" are in "proximity" or "overlap". But this difference would have been obvious

to a person having ordinary skill in the art. Motivation exists in Benson to reduce screen clutter, and use of simplification techniques as per Grossman, when applied to a Benson composite group, will result in "proximity"-directed Grossman "changing" or "merging".

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (703) 305-9789. The examiner can normally be reached on M - F from 10:00 AM to 5:00 PM.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703) 308-3116. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (703) 872-9306.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173
25 May 2004